**Calendar No. 219**

| 101ST CONGRESS *1st Session* | SENATE | REPORT 101-119 |
|---|---|---|

# MARITIME ADMINISTRATION AUTHORIZATION

---

## REPORT

OF THE

## SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ON

## H.R. 1486

AUGUST 30, 1989.—Ordered to be printed

Filed under authority of the order of the Senate of August 2 (legislative day, January 3), 1989

---

U.S. GOVERNMENT PRINTING OFFICE

29-010 WASHINGTON : 1989

S263-26

## COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ERNEST F. HOLLINGS, South Carolina, *Chairman*

DANIEL K. INOUYE, Hawaii
WENDELL H. FORD, Kentucky
J. JAMES EXON, Nebraska
ALBERT GORE, JR., Tennessee
JOHN D. ROCKEFELLER IV, West Virginia
LLOYD BENTSEN, Texas
JOHN F. KERRY, Massachusetts
JOHN B. BREAUX, Louisiana
RICHARD H. BRYAN, Nevada
CHARLES S. ROBB, Virginia

JOHN C. DANFORTH, Missouri
BOB PACKWOOD, Oregon
LARRY PRESSLER, South Dakota
TED STEVENS, Alaska
ROBERT W. KASTEN, JR., Wisconsin
JOHN McCAIN, Arizona
CONRAD BURNS, Montana
SLADE GORTON, Washington
TRENT LOTT, Mississippi

RALPH B. EVERETT, *Chief Counsel and Staff Director*
WALTER B. MCCORMICK, JR., *Minority Chief Counsel and Staff Director*

Calendar No. 219

101ST CONGRESS
*1st Session*

SENATE

REPORT
101-119

# MARITIME ADMINISTRATION AUTHORIZATION

AUGUST 30, 1989.—Ordered to be printed

Filed under authority of the order of the Senate of August 2 (legislative day, January 3), 1989

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, submitted the following

## REPORT

[To accompany H.R. 1486]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (H.R. 1486) to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes, having considered the same reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill do pass.

### PURPOSE OF THE LEGISLATION

The bill as reported would authorize funds for the activities of the Maritime Administration (MarAd) and make changes in the operations of programs within that administration.

### BACKGROUND AND NEEDS

MarAd is responsible for all federally-funded promotional activities to maintain and enhance the U.S. merchant marine. The principle activities and programs conducted by MarAd include the Operating Differential Subsidy (ODS) program; Research and Development; Manpower, Education and Training; Operating Programs; National Security Support Capabilities; and the Ocean Freight Differential program.

In preparing the reported bill, the Committee reviewed a fiscal year (FY) 1990 budget proposal from the administration, as well as a proposed authorization measure. The administration's budget re-

quest is summarized in the following table:

MARITIME ADMINISTRATION 1990 BUDGET SUMMARY

[Appropriations in thousands]

| | 1988 | 1989 | 1990 | Change | |
|---|---|---|---|---|---|
| | | | | Technical | Program |
| Oper-diff. Subsidy: | | | | | |
| Ex. prog.-Approp | $222,918 | $218,100 | $225,870 | $7,770 | ..... |
| Ref. prog.-Ex. Op | | | [178,240] | ..... | [−47,630] |
| Ref. prog.-New Op | | | [57,760] | ..... | [+57,760] |
| Ocean Freight Diff | 40,605 | 49,740 | 47,750 | (1,990) | ..... |
| Reform | | | [42,975] | ..... | [−4,775] |
| Oper. and Training: | | | | | |
| USMMA: | | | | | |
| Main. and Mod | 5,769 | 5,758 | 8,075 | 467 | [1] 1,850 |
| Other | 14,521 | 14,532 | 15,082 | 550 | ..... |
| Total | 20,290 | 20,290 | 23,157 | 1,017 | 1,850 |
| SMS: | | | | | |
| Dir. pmts | 600 | 600 | 600 | ..... | ..... |
| SIP's | 600 | 1,700 | 1,500 | ..... | (200) |
| M&R | 15,700 | 5,650 | 5,370 | 470 | [1] (750) |
| Other | ..... | 50 | 1,200 | ..... | 1,150 |
| Total | 16,900 | 8,000 | 8,670 | 470 | 200 |
| Additional Train | 1,244 | 1,172 | 1,378 | 56 | 150 |
| Tot., Training | 38,434 | 29,462 | 33,205 | 1,543 | 2,200 |
| Nat. Sec. Supt. Cap.: | | | | | |
| NDRF | 9,161 | 6,464 | 6,578 | 114 | ..... |
| Emer. Plns and Op | 1,121 | 1,236 | 1,301 | 65 | ..... |
| Total, NSSC | 10,282 | 7,700 | 7,879 | 179 | ..... |
| Other Op. Prog | 26,805 | 29,088 | 27,466 | (2,217) | 595 |
| Total, O&T | 75,521 | 66,250 | 68,550 | (495) | 2,795 |
| Ready Reserve Force: | | | | | |
| Fleet Additions | 362 | 32,400 | 86,865 | ..... | 54,465 |
| Main. and Opns | 73,715 | 75,351 | 118,615 | ..... | 43,264 |
| Facilities | ..... | 3,000 | 4,000 | ..... | 1,000 |
| TACS | ..... | ..... | 29,550 | ..... | 29,550 |
| Total, RRF | 74,077 | 110,751 | 239,030 | ..... | 128,279 |
| FSFF Suppl | ..... | 515,000 | ..... | (515,000) | ..... |
| Total, MarAd | 413,121 | 959,841 | 581,200 | (509,715) | 131,074 |

Key: [ ]'s = Proposed reform legislation, non-add. ( )'s = Negative amounts.

[1] The appropriation request is partly from transfer of $2,250,000 from the expired Ship Construction account for one time costs of major USMMA repairs and start-up costs for ship sharing ($400,000).

The administration also proposed changes in the operations of programs within MarAd. The first proposal would eliminate the Student Incentive Program (SIP), which provides Federal support to students at State maritime academies. In place of the SIP payments, the administration would provide direct payments to the maritime institutions.

A second proposal would require that all graduates of the State institutions pass the Coast Guard licensing exam and apply for

commissions in the U.S. Naval Reserve. Also, the legislation proposed by the administration would institute a ship sharing program among the State academies in place of the current system in which each school maintains its own dedicated training ship.

Finally, the administration requested no funding to support or conduct research and development activities. Despite a consensus among the ship building and operating industries on the need to conduct research and development activities and the inability within those industries to fund such activities entirely from private sources, the administration remains opposed to the expenditure of Federal funds for this type of activity. In the absence of a direct legislative mandate, there would be no research and development activities other than the ongoing "technical studies," in FY 1990.

MarAd has been operating without an authorization enacted into law since 1985. H.R. 1486, as reported would provide the statutory and budgetary direction to MarAd that is necessary to continue its operation in FY 1990.

## Legislative History

H.R. 1486 was approved by the House of Representatives on May 2, 1989, and referred to the Committee on May 3, 1989. On June 1, 1989, the Subcommittee on Merchant Marine conducted a hearing to consider this legislation. The Subcommittee received testimony from administration witnesses and outside parties. On June 20, 1989, the Committee met in open executive session and without objection ordered H.R. 1486 reported with an amendment in the nature of a substitute.

## Summary of Major Provisions

As reported, H.R. 1486 would:

1. Authorize appropriations of any amounts that are necessary to liquidate obligations under ODS contracts;
2. Authorize to be appropriated additional sums for research and development activities; manpower, education, and training programs, including funds for the U.S. Maritime Academy and the State maritime academies; and national security support programs;
3. Change some of the requirements of the SIP programs for the State maritime academies; prohibit any ship sharing programs among those institutions pending congressional review; provide funding for the Great Lakes Maritime Academy; and initiate a study on various proposals to provide training opportunities for students at State maritime academies;
4. Clarify the existing relationship between the Department of Defense and the Department of Transportation (DOT) with respect to the National Defense Reserve Fleet (NDRF) and limit authority of the Secretary of Transportation (Secretary) to require bonding from contractors who repair or maintain that fleet; and
5. Authorize the Secretary to designate National Maritime Enhancement Institutes, and authorize grants for the operation of such Institutes.

## ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
*Washington, DC, July 21, 1989.*

Hon. EARNEST F. HOLLINGS,
*Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the attached cost estimate for H.R. 1486, an act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER,
*Director.*

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1486.

2. Bill title: An act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes.

3. Bill status: As ordered reported by the senate Committee on Commerce, Science and Transportation, June 20, 1989.

4. Bill purpose: H.R. 1486 would authorize fiscalyear 1990 appropriations to the Maritime Administration (MARAD). Specific funding levels would be provided for research and development ($3.75 million) and for operations and training activities ($59.17 million). In addition, the act would authorize the appropriation of whatever sums are necessary for national security programs (including the Ready Reserve Force) and to liquidate 1990 obligations under operating differential subsidy contracts.

Section 2 of the act would amend provisions in the Merchant Marine Act relating to Student Incentive Payments (SIPs). The amendment is intended to reduce federal losses incurred when students drop out of the program before graduation but after stipends have been awarded.

Section 7 would permit the Secretary of Transportation to designate eligible nonprofit institutes of higher learning as "national maritime enhancement institutes." The Secretary would be permitted to make research grants to the new institutes from any funds made available in appropriation acts. No sums would be authorized specifically for this purpose.

H.R. 1486 would also require new studies and would amend or reauthorize various sections of the Merchant Marine Act.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

| | 1990 | 1991 | 1992 | 1993 | 1994 |
|---|---|---|---|---|---|
| Estimated authorization level | 186 | | | | |
| Estimated outlays | 130 | 45 | 11 | | |

The costs of this act fall within budget function 400.

*Basis of estimate:* For purposes of this analysis, it is assumed that the entire estimated authorization level will be appropriated for fiscal year 1990. Authorization levels for research and development, ongoing operations, and educational programs are those specified in Section 1. For national security programs, authorizations have been estimated at baseline levels for 1990—i.e., the 1989 levels adjusted for inflation. These amounts include $115 million for the Ready Reserve Force and $8 million for other related activities. (The President's budget for 1990 includes $247 million for these purposes.) Outlays have been estimated on the basis of historical spending patterns for these programs. No sums for liquidation of operating differential subsidy obligations have been included as part of the authorization level or estimated outlays in the above table because such spending is the result of previously provided contract authority.

Section 2 would restructure the SIP program to reduce losses incurred when state maritime cadets who have received the $1,200 annul stipend drop out of the program before they have signed any commitment to the federal government. If participation levels were reduced to reflect the proposed change, potential savings would be between $0.5 million and $1 million a year at current program levels, but much less in the first two or three years. However, any savings realized would depend on annual appropriations actions; if these are not reduced to reflect the lower requirements, no savings would be realized. No budget impact has been included in this estimate for any potential savings under Section 2, because the bill specifies the authorization level for this program.

Other provisions of this act are expected to have no significant impact on the federal budget, including the five-year reauthorization of the war risk insurance program now set to expire on June 30, 1990.

6. Estimated cost to State and local governments: None.

7. Estimate comparison: None.

8. Previous CBO estimate: On April 25, 1989, CBO prepared an estimate for H.R. 1486, as ordered reported by the House Committee on merchant marine and Fisheries on April 18, 1989. For provisions that are the same in both bills, our present estimates are identical to those contained in the earlier submission. Differences in estimated authorization levels and outlays reflect the Senate bill's indefinite authorization for national security programs, in contrast to the House's specific authorizations. This estimate assumes authorizations for those programs equal to CBO's February baseline, which is considerably lower than the house's authorizations.

9. Estimate prepared by: Deborah Reis.

10. Estimate approved by: James L. Blum, Assistant Director for Budget Analysis.

## Regulatory Impact Statement

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

H.R. 1486 is a reauthorization of existing programs within MarAd and thus will have no significant additional regulatory or economic impact. The legislation, including the provisions relating to the operations of the State schools and the NDRF, will have no effect on the number or types of individuals. The paperwork requirements imposed by this legislation on businesses, individuals, and the agencies are expected to be minimal.

## Agency Comments

U.S. Department of Transportation,
*Washington, DC, June 19, 1989.*

Hon. John B. Breaux,
*Chairman, Subcommittee on Merchant Marine, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.*

Dear Mr. Chairman: The Department of Transportation would appreciate your consideration of the following views with respect to H.R. 1486, an act to authorize appropriations for fiscal year 1990 for the Maritime Administration, and for other purposes, as passed by the House of Representatives on May 2, 1989 (H.R. 1486).

The major concerns of the Department with respect to H.R. 1486 pertain to the following:

(a) In section 1(1), the total authorized amounts should be consistent with the fiscal year 1990 budget of $533,450,000 if the Operating-Differential Subsidy (ODS) program is not reformed, or $543,580,000 if ODS Reform legislation is enacted. Futhermore, the language of section 1 (1) would appear to authorize liquidation of only those obligations actually incurred in fiscal year 1990, and not provide for prior year liquidations.

(b) Section 1(2) of H.R. 1486 contains $2,250,000 for research and development vessel design and shipyard studies. These studies, while supportive of an important segment of the maritime industry, should be conducted by the ongoing joint effort between industry and the Navy with the coordinating role being provided by the maritime technical and program study personnel of this Department. Therefore, the Department is opposed to section 1(2) of H.R. 1486.

(c) Section 2 of H.R. 1486 would amend section 1304(g) of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1295c(g)), to impose more stringent requirements on the Student Incentive Payment (SIP) Program at the state maritime academies. The Department opposes such an approach, as it fails to address the basic problem of generating sufficient reserve obligations among the graduates of the state maritime academies. The Department's position is that a more appropriate approach is the phaseout of SIPs

and initiation of a reserve commitment which would ensure that all graduates of state merchant marine officer programs are available to meet U.S. requirements during a national emergency. Funds made available by the SIP phaseout would be used to increase direct payments to the six academies.

d. Section 3 of H.R. 1486 would require the Secretary, after consultation with other Executive Branch agancies and the various maritime academies, to submit to the Congress a study within one year to determine how currently employed training vessels, U.S.-flag commercial vessels, vessels in the Ready Reserve Force and other vessles under the control of the United States Government may be used to provide training opportunities for state, regional and Federal maritime academies that will produce licensed graduate officers. No changes in the current shipboard training programs at the state maritime academies would be authorized until completion of this study and review by the Congress. The Department is of the view that this requirement for a new study is unnecessary.

e. Section 5 of H.R. 1486 would amend section 11 of the Merchant Ship Sales Act of 1946, as amended (50 App. U.S.C. 1744). The Department believes that a clarification should be added to reflect the understood purposes Congress is achieving. The clarification and the understandings are set forth below.

The following three clarifications are recommended:

(1) The plural reference to "memoranda of agreement" in subsection (b)(2) be singularized because only one memorandum of agreement is pertinent, i.e., the one approved by the Secretary of Transportation and the Deputy Secretary of Defense on October 31, 1988 (MOA), the day it became effective;

(2) The phrase "on the request of the Secretary of the Navy" in subsection (b)(2) is not understood to differ from the phrase that follows, "and in accordance with the memoranda of agreement between the Secretary of Transportation and the Secretary of Defense." To avoid any confusion on the meaning of the first phrase, we suggest its deletion; and

(3) Subsection (b)(3) should be redesignated subsection (b)(2)(D), because it is also derivative of the MOA. This redesignation requires that the term "and" at the end of subsection (b)(2)(B) be deleted.

There are three understandings on which the amendment's subsection (b) is founded. First, subsection (b)(1) applies to the entire National Defense Reserve Fleet (NDRF), including its Ready Reserve Force (RRF) component. Second, subsection (b)(2) (including redesignated subsection (b)(2)(D)), however, applies only to the RRF component. The reason is that these explicit and detailed provisions are taken from the MOA, which, by its terms, is limited to the RRF. The introductory statement on the House Floor makes this clear, but it is essential to this Department that it be restated to avoid any questions in the future. Further, and notwithstanding the term "used" in the introduction to subsection (b), it is understood that the Secretary of Transportation's activation or use of RRF vessels for the purposes recited in subsections (b)(2)(A), (B) and (C) will be governed by the appropriate provisions of the MOA. Third, the necessary authority of the Secretary of Transportation

over the NDRF, exclusive of its RRF component, continues unchanged. The Secretary of Transportation will continue, without an official request or the concurrence of the Department of Defense to activate and use NDRF vessels (a) to test readiness and stability for mission performance; and (b) to transfer under authority of law, (e.g., 40 U.S.C. 483a), for storage and transportation of non-defense related cargo under authoirity of law (e.g., charters under Title VII of the Merchant Marine Act, 1936), and for other purposes under authority of law (e.g., furnish to state maritime academies under Title XIII of the Merchant Marine Act, 1936).

Section 5 would also authorize the Secretary of Transportation to enter a contract for the maintenance of the NDRF, including the RRF, only for: (1) the repair, activation, operation, berthing, towing, or lay up of a vessel; (2) a vessel used by a state maritime academy; and (3) obtaining maintenance technical services when (A) the technical expertise required for that service is beyond the capabilities of the fleet staff or when the NDRF has insufficient personnel resources to adquately maintain the fleet, and (B) the contract does not result in reducing employment at the NDRF site. At the present time, the entire operation of each of the three NDRF sites and the maintenance of certain outported RRF ships assigned to these sites are being reviewed for possible contracting out under OMB Circular A-76. Although we appreciate the clarification that will permit us to continue to contract out certain functions, the Department opposes any prohibition, because it is contrary to the Administration's policy on contracting out commercial activities. Finally, with respect to section 5(c)(2), we understand that Congress intends no different treatment for a NDRF or RRF vessel used by a state maritime academy than otherwise used under subsection (c)(1). We suggest deletion of (c)(2) and a statement in the legislative record that a vessel in (c)(1) includes a NDRF/RRF vessel used by a state maritime academy.

f. Section 7 of H.R. 1486 would authorize the Secretary to designate one or more qualified nonprofit institutions of higher learning as National Enhancement Institutes (Institutes). Section 7 sets forth the research and other activities such Institutes would perform to improve the performance of maritime industries. The Secretary would also be authorized to make grants to the Institutes if funds are appropriated for that purpose. The Department is opposed to the establishment of new grant programs specifically for the purposes set forth in section 7.

g. Section 8 of H.R. 1486 sets forth Congressman Traficant's Buy American amendment, which would generally give a 6 percent cost advantage to a qualified American firm competing against a foreign firm on a contract funded by authorized amounts. We oppose this provision because: (1) it is likely to reduce the competitive options available to the U.S. Government and to unnecessarily increase the cost of goods to taxpayers; (2) it is likely to undercut our efforts to open foreign government procurement markets to American exporters; and (3) this provision sets an unfortunate precedent for similar or even more anti-competitive provisions affecting other government agencies.

The Department supports the adoption by the House of Representatives of an Administration proposal to extend war risk insur-

ance. Section 6 of H.R. 1486 would amend section 1214 of the Merchant Marine Act, 1936, as amended (46 App. U.S.C. 1249), to extend for five years the Secretary's authority, with the approval of the President, to provide war risk and certain maritime and liability insurance, when commercial insurance cannot be obtained on reasonable terms and conditions.

Finally, the Department would appreciate your consideration of a legislative proposal not set forth in H.R. 1486. This Administration proposal would amend section 362(b) of Title 11, United States Code, to extend the authority of the Secretary of Commerce and the Secretary of Transportation, 90 days after the filing of a bankruptcy petition, to foreclose on a defaulted mortgage even though the mortgagor is in bankruptcy. This temporary authority, approved by the Congress in 1986, will expire by its terms on December 31, 1989. We request an extension of this authority to December 31, 1992.

Thank you for your consideration of the views of the Department of Transportation on this legislation.

The Office of Management and Budget advises that, from the standpoint of the Administration's program, there is no objection to the submission of this report for the consideration of the Committee.

Sincerely,

ROSALIND A. KNAPP,
*Deputy General Counsel.*

## SECTION-BY-SECTION ANALYSIS

### SECTION 1.—AUTHORIZATIONS

This section authorizes the following amounts for programs conducted by MarAd in FY 1990:

(1) Operating Differential Subsidy (ODS): The reported bill authorizes "any amounts necessary to liquidate obligations under operating-differential subsidy contracts." The ODS program is necessary for the promotion and maintenance of a U.S.-flag merchant marine which can provide liner shipping services in world markets to support military needs and economic objectives. The subsidies are designed to achieve parity between certain U.S.-flag and foreign-flag operating costs.

Approximately $4,700,000 in contractual obligations between the Secretary and certain U.S. vessel operators remain outstanding. It is estimated that these contracts have an average remaining life of 8.5 years, and that the potential fiscal year 1990 obligation would be $550,000,000. The current estimate of outlays for FY 1990, however, is approximately $226,000,000, which would support 82 vessels. This estimate assumes a continuation of shipping and trade activities at the present level and no changes in the structure of the ODS program.

The administration expressed opposition to an authorization of this nature. Instead it proposed a specific authorization of approximately $226,000,000, with an understanding that additional sums would be needed to accommodate ODS reform legislation that might be enacted in this Congress.

The administration has not submitted ODS reform legislation and has indicated that it will be forthcoming. But the administration has not given the Committee any indication of when such a proposal will be made. The Committee believes that the language that has been reported will not restrict the ability of the administration to develop an ODS reform package and that it does permit funding for any changes to the ODS program that may be enacted.

(2) Research and Development (R&D): The bill as reported authorizes $3,750,000 for R&D activities. This amount would be divided into: $2,250,000 for vessel design and shipyard studies; and $1,500,000 for other research.

The administration requested no funds for this function and has opposed in recent years efforts to continue and enhance R&D activities. The opposition of the administration is based upon the position that these types of programs are more appropriately carried out by the private sector.

The Committee disagrees with the administration in this regard, and authorizes these funds in recognition of the fact that other nations are actively pursuing government-sponsored research and development programs, and that private industry cannot carry the entire burden of research and development at this time. Finally, there is certain long-term, industry-wide R&D in the public interest that realistically can only be sponsored by the Federal Government.

The Committee intends that the funds authorized in this section will be used for programs that develop concepts, methods, systems, and equipment to improve productivity and operating efficiency in the shipbuilding and ship operating industries. With respect to shipbuilding and ship design, the Committee intends that a sufficient portion of the funds authorized and appropriated for vessel design and shipyard studies authorization be devoted to the identification and testing of new concepts in hull and propulsion systems for merchant ships. The emphasis of these activities should be the development of a commercially-viable transport vessel that is capable of open ocean speeds in excess of 40 knots; which satisfies both military sealift and commercial requirements; and which is capable of being constructed in U.S. shipyards.

Other nations, such as Japan, are actively supporting research and development efforts to produce large commercial transport ships capable of trans-oceanic speeds of sixty miles an hour. Clearly, the United States cannot afford to lose an opportunity to develop this capability and to perhaps gain a major commercial advantage over other nations. One goal of this research would be to employ emerging concepts in hull design and propulsion combined with advances in marine gas turbines to produce a U.S.-built vessel that meets both commercial and military sealift needs, and to do this in the shortest possible time.

MarAd is directed in the Merchant Marine Act, 1936 [46 App. U.S.C. 1121(j)], to investigate and determine new designs, new methods of construction, and new types of equipment for vessels. Thus new hull design and propulsion systems research is consistent with this statutory directive. A further emphasis of these activities should be the commercial application of the technologies and designs. MarAd is responsible for the promotion of the U.S. merchant

marine. The commercial application of new technologies will enhance the competitive position of the merchant marine, strengthen the fleet, and increase national security.

The administration proposed $1,150,000 for "technical studies" under operations and training. H.R. 1486 as reported transfers these funds to the R&D account. Of the $1,500,000 for such research and development, under section 1(2)(B), not more than $100,000 is authorized for the funding of the National Maritime Enhancement Institutes, which is authorized in section 8 of H.R. 1486 as reported.

(3) Manpower, Education and Training: The bill as reported authorizes $33,205,000 for expenses related to manpower, education, and training. These funds are to be used primarily for the operations of the U.S. Merchant Marine Academy and for support of the State Maritime Academies.

(A) *The United States Merchant Marine Academy (USMMA), King Point, NY:* Section 1(3)(A) authorizes $23,257,000 for maritime education and training programs at the USMMA to conduct a four-year undergraduate program which leads to a Bachelor of Science degree and to a Coast Guard-issued merchant marine license as a third mate or third assistant engineer. The average enrollment in 1988 was 846 midshipmen. USMMA students are enrolled as midshipmen in the U.S. Naval Reserve and, if eligible, are commissioned upon graduation as ensigns in the Naval Reserve.

The $23,257,000 authorized for the USMMA also will permit the continuation of a long-range facilities modernization and renovation program at the USMMA with a particular emphasis on the renovation of the Academy's central heating plant and distribution system. The facilities at the USMMA are more than 40 years old and in critical need of this work.

(B) *State Maritime Academies:* Paragraph (3)(B) authorizes $8,670,000 for assistance to the six State maritime academies. Federal assistance is permitted under provisions added to the Merchant Marine Act, 1936, by the Maritime Education and Training Act of 1980 (46 App. U.S.C. 1295 et seq.), and is in the form of payments directly to the State institutions in support of their programs and for the operation and maintenance of training vessels provided to the schools. This assistance includes: the cost of alterations, repairs and general maintenance of the current fleet of five training vessels at the State academies; direct annual payments of $100,000 to each academy or, in the case of a regional academy, up to $200,000 per year as provided by the change contained in section 5 of the reported bill; and SIP in support of cadets amounting to $1,200 per academic year for each qualified cadet.

(C) *Additional Training:* Paragraph (3)(C) authorizes $1,378,000 for manpower and additional training which is the amount necessary for MarAd to administer the State school programs, conduct supplementary training courses, and meet the costs of developing and maintaining current data on the maritime labor force.

(4) Operating Programs: Paragraph (4) authorizes $25,966,000 for operating programs, including general administration of policies

and programs. This amount is $1,500,000 less than the amount requested by the administration, but that amount of difference was transferred to and included in the R&D authorization provided in this bill.

(5) National Security Support Capabilities: Paragraph (5) authorizes such amounts as are necessary for expenses related to national security support capabilities. The administration proposed, and the House of Representatives concurred in, an authorization of $246,909,000 for this function. However, it is unclear at this time what the available appropriations will be for these programs in FY 1990.

Given this uncertainty, the Committee concluded that statutory language which identified the areas within this program that warranted funding, but which was silent on specific amounts for each program, was the preferable course to adopt. These areas include: fleet additions, replacements, acquisitions, and upgrading of vessels in the Ready Reserve Force (RRF); maintenance and operations programs in support of the RRF; support for RRF facilities and vessel conversions and other NDRF programs. Emergency planning operation are also covered.

The uncertainty surrounding funding for these areas is caused in part by the recent transfer and clarification of funding and operational responsibility for the RRF from the Department of Defense to MarAd. Prior to the transfer, the program received funding from the U.S. Navy, and it is unclear whether additional funding support from the Navy will be forthcoming since control of the RRF now rests with MarAd.

SECTION 2.—STUDENT INCENTIVE PAYMENT PROGRAM

This section amends section 1304(g) of the Merchant Marine Act, 1936 [46 App. U.S.C. 1295c(g)], to increase the commitment to the Federal Government by students receiving Student Incentive Payments (SIPs). This program assists certain individuals attending State maritime academies.

At the present time, students receive these payments for the first two academic years, and they do not have to enter into a U.S. Naval Reserve commitment until their third year of studies. It has been brought to the Committee's attention that some students never complete the third academic year nor enter into this agreement and in effect receive the Government payments of $1,200 per year for two years without returning any reciprocal benefit to the U.S. Government. Section 2 corrects this deficiency by providing that the $1,200 payment for the first year would not be paid to a cadet until the second year after that cadet has accepted, if offered, an appointment to serve in the Naval Reserve.

SECTION 3.—COAST GUARD LICENSING REQUIREMENT

Section 3 requires that all graduates of the State maritime academies take and pass the Coast Guard merchant marine licensing exam under 46 U.S.C. 7101. The Committee believes that this requirement is consistent with the purposes of the State Maritime Academies which is to prepare individuals for service in the Merchant Marine of the United States. Clearly, one basic requirement

for service in the Merchant Marine is a Coast Guard merchant marine license, and the imposition of this requiement does not appear to impose any great hardship upon the State institutions or their students. By their own testimony, the State schools indicated that less than one percent of all graduates do not take the Coast Guard exam. Thus, the Committee believes that it is reasonable to impose a requirement of this type on graduates of institutions whose purposes include the training of young men and women to become officers in the Merchant Marine of the United States.

SECTION 4.—STUDY

This section requires the Secretary to submit to the Congress within one year a comprehensive study on training opportunities onboard vessels that will produce licensed graduate officers at State maritime academies. The study is to be prepared after consultation with other Federal agencies and the State, regional, and Federal maritime institutions. The study is to determine how currently employed training vessels, the U.S.-flag commercial vessels, vessels in the RRF, and other U.S.-controlled vessels may be used for onboard training.

The purpose of this section is to develop an evaluation of alternatives to the ship-sharing plan that has been proposed by the Administration as a replacement for the current system of five separate training ships assigned to the State academies. The administration plan was due to begin in 1990 with three ships and in 1991 with two ships. After reviewing hearing testimony and other information, the Committee does not concur in the administration's proposal at this time. One alternative that has been suggested involves the use of RRF vessels as training ships, and the Committee expects the study to provide an analysis of the feasibility of that proposal as well as other alternatives. The Committee believes that all alternatives must be comparatively analyzed before the implementation of a change in the current shipboard training system at the State academies. This section prohibits implementation of any ship sharing program until not less than 60 days after the study is submitted to the Congress.

SECTION 5.—PAYMENTS TO REGIONAL MARITIME ACADEMIES

This section amends section 1304(d)(1) of the Merchant Marine Act, 1936, [46 App. U.S.C. 1295c(d)(1)], to increase direct payments to a regional maritime academy. At the present time, the six regional and State institutions receive $100,000 apiece in direct payments from the Federal Government provided that the State or cooperating States match the Federal payment. In the case of the five State schools, MarAd provides direct support for expenses related to the training ships. The one regional maritime academy, the Great Lakes academy, trains its cadets on active Great Lakes commercial vessels, and thus no Federal support is received for those training expenses.

Section 5 requires that additional Federal payments be made to a regional academy, not to exceed $200,000 annually, on a matching basis with the State contribution. It is not expected that the increased payments will exceed $35,000 in FY 1990, and this modifi-

cation does not require additional budget authority. It is designed only to bring parity to the system of Federal support for the State institutions.

SECTION 6.—NATIONAL DEFENSE RESERVE FLEET

This section amends section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744), which established the NDRF. The amendment clarifies the relationship between the MarAd and the Department of the Navy, which, under an agreement with the DOT, identifies certain vessels as part of the RRF. This section sets out terms under which the Navy can activate and use the vessels in the RRF. These terms include: the testing for readiness of the vessels; defense sealift functions; support of the deployment of U.S. forces in a military contingency; otherwise lawfully permitted storage or transportation as directed by the Secretary, with the concurrence of the Secretary of Defense; and training purposes as authorized by the Secretary, with the concurrence of the Secretary of Defense. This section codifies provisions of the existing memorandum of agreement between the two agencies, while providing for subsequent memoranda to implement the basic agreement.

Subsection (c) prohibits the imposition of bonding requirements on contractors who repair, alter, or maintain the NDRF, including the RRF, unless such bonds are required by law, or the imposition of the requirements would not preclude any responsible bidder from competing for award of the contract. This provision is designed to ensure that no reponsible and capable contractor is prevented from competing for an NDRF-related contract as a result of bid, payment, performance, completion, or other bonding requirements imposed by MarAd. The Committee has been informed that the U.S. Navy does not require the same types of bonding that MarAd requires, and there appears to be no basis for the distinction between the two agencies.

The Committee recognizes that existing law (40 U.S.C. 270f) provides the Secretary with the authority to waive the bonding provisions of the Miller Act (40 U.S.C. 270a-d). In view of this waiver provision, the Miller Act should not be considered a statute requiring bonding under subsection (c)(1).

In making the determination under subsection (c)(2), the Committee expects that the Secretary will ascertain, through a Commerce Business Daily survey or other appropriate means of soliciting expressions of interest in competing for a contract, the names of those businesses that are interested in the procurement and whether they are capable of obtaining the contemplated bonding. Any potential bidder that does not respond to such a solicitation of interest would not be in a position to challenge the procurement later on the basis that it could not compete for the contract. In making the determination regarding responsibility of potential bidders, the Committee expects the Secretary to apply the traditional standards of responsibility contained in the Federal Acquisition Regulations.

SECTION 7.—WAR RISK INSURANCE

This section amends section 1214 of the Merchant Marine Act, 1936, to extend the Secretary's authority to provide war risk insur-

ance when it cannot be reasonably obtained from private insurance companies authorized to do business in a State of the United States. The period of the extension is five years.

An additional requirement is imposed by this section to ensure that any vessel for which insurance is provided be available to the United States if required and requisitioned by the United States. There currently exists some opinion that U.S. vessels which are flagged in a foreign nation would not be subject to requisitioning, and this section makes clear the intent of the Committee that vessels receiving War Risk Insurance benefits agree to be subject to requisitioning.

SECTION 8.—NATIONAL MARITIME ENHANCEMENT INSTITUTES

This section authorizes the Secretary to designate National Maritime Enhancement Institutes and specifies the criteria for receiving the Federal designation and funding. These institutes will conduct research into all aspects of the maritime industry. The Merchant Marine Act, 1936, in part directs the Secretary to "investigate the practicability and advantages of harbor, river and port improvements in connection with foreign trade", and other modes of transportation have federally-designated university-based institutes devoted to their development. The areas of research at these institutes are to include: competitiveness of domestic maritime industries, such as the inland waterway transportation systems; efficiency and capacity analyses; technological advancements in the industry; pricing of services and other economic analyses; and other areas which would lead to a greater understanding of the current shipboard transportation system within the United States, and throughout the world.

Applicants for this designation must meet the criteria set forth in the bill such as the existence of an established program of research and training in the maritime industry, and ability to assemble and evaluate information from national and international sources and to disseminate that information through continuing education programs. The designee must be a nonprofit institution of higher learning, and consortia of such institutions would qualify for this designation.

Federal grants will be distributed on an equal matching basis to the designated institution. Thus, the recipient must obtain equal funds from private sector or other governmental sources, such as State governments, in order to receive the Federal assistance. Such matching assistance may be in the form of overhead, office space, and other indirect costs that can be identified. The funds for these institutes will be obtained from the $1,500,000 that is provided for "other research" in section 1(2)(B) of this legislation, and the aggregate amount of these grants cannot exceed $100,000 in FY 1990.

## CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

## MERCHANT MARINE ACT, 1936

### Section 1202 of that Act

SEC. 1202. (a) * * *
(b) * * *
*(c) Insurance and reinsurance for vessels may be provided by the Secretary under this title only on the condition that such vessels be available for the United States in time of war or national emergency.*

### Section 1214 of that Act

SEC. 1214. The authority of the Secretary to provide insurance and reinsurance under this title shall expire June 30, [1990] *1995.*

### Section 1304 of that Act

SEC. 1304. (a) * * *
(b) through (c) * * *
(d)(1)*(A)* The Secretary may enter into an agreement, which shall be effective for not more than 4 years, with one State maritime academy (not including regional maritime academies) located in each State or territory of the United States which meets the requirements of subsection (f)(1), and with each regional maritime academy which meets the requirements of subsection (f)(1), to make annual payments to each such academy for the maintenance and support of such academy. [The amount of each such annual payment shall be not less than the amount furnished to such academy for its maintenance and support by the State or territory in which such academy for its maintenance and support by the State or territory in which such academy is located or, in the case of a regional maritime academy an amount equal to the amount furnished to such academy for its maintenance and support by all States or territories, or both, cooperating to support such academy, but shall not exceed $25,000, or $100,000 if such academy meets the requirements of subsection (f)(2).]
*(B) Subject to subparagraph (C), the annual payment to such State maritime academy shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, and to such regional maritime academy shall be at least equal to the amount given the academy by all States and territories cooperating to sponsor the academy.*
*(C) The amount under subparagraph (B) may not be more than $25,000, except that the amount shall be—*
*(i) $100,000 to such State maritime academy if the academy meets the condition set forth in subsection (f)(2); or*
*(ii) $200,000 to such regional maritime academy if the academy meets the condition set forth in subsection (f)(2).*
(2) * * *
(e) * * *
(f)(1) As a condition to receiving any payment or the use of any vessel under this section, any State maritime academy shall—
(A) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation

and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States; [and]

(B) agree in writing to conform to such standards for courses, training facilities, admissions, and instruction as are established by the Secretary after consultation with the superintendents of the State maritime academies[.]; and

*(C) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program shall pass the examination administered by the Coast Guard required for issuance of a license under section 7101 of title 46, United States Code.*

(2) * * *

(g)(1) The Secretary may enter into an agreement, which shall be effective for not more than 4 academic years, with any individual, who is a citizen of the United States and is attending a State maritime academy which entered into an agreement with the Secretary under subsection (d)(1), to make student incentive payments to such individual, which payments shall be in amounts equaling $1,200 for each academic year and which payments shall be—

(A) allocated among the various State maritime academies in a fair and equitable manner;

(B) used to assist the individual in paying the cost of uniforms, books, and subsistence; [and]

[(C) paid by the Secretary to the individual in such payments as the Secretary shall prescribe while such individual is attending such academy.]

*(C) paid by the Secretary to the individual for the first complete or partial academic year of attendance in a lump sum of $1,200 or in amounts prorated on the basis of actual attendance, and at a time during the second academic year when the individual enters into an agreement accepting midshipman and enlisted reserve status as required under paragraph (2); and*

*(D) paid by the Secretary, for the academic years after those years specified in subparagraph (C), as the Secretary shall prescribe while the individual is attending the academy.*

(2) Each agreement entered into under paragraph (1) shall require the individual to [apply for midshipman] *accept midshipman and enlisted reserve* status in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve) before receiving any student incentive payments under this subsection.

(3) Each agreement entered into under paragraph (1) shall obligate the individual receiving student incentive payments under the agreement—

(A) through (C) * * *

(D) [to apply for an appointment as,] to accept if tendered an appointment as, and to serve as a commissioned officer in the United States Naval Reserve (including the Merchant Marine Reserve, United States Naval Reserve), the United States Coast Guard Reserve, or any other reserve unit of an armed force of the United States, for at least 6 years following

the date of graduation from such State maritime academy of such individual;

(E) through (F) * * *

(4) If the Secretary determines that any individual who [has attended a State maritime academy for not less than 2 years] *has accepted the payment described in paragraph (1)(C) of this subsection* has failed to fulfill the part of the agreement (required by paragraph (1)) described in paragraph (3)(A), such individual may be ordered by the Secretary of the Navy to active duty in the United States Navy to serve for a period of time not to exceed 2 years. In cases of hardship as determined by the Secretary, the Secretary may waive this paragraph.

(5) through (7) * * *

(h) * * *

## MERCHANT SHIP SALES ACT OF 1946

### Section 11 of that Act

[NATIONAL DEFENSE RESERVE FLEET

[SEC. 11. (a) The Secretary of Transportation shall place in a national defense reserve (1) such vessels owned by the Department of Transportation as, after consultation with the Secretary of War and the Secretary of the Navy, he deems should be retained for the national defense, and (2) all vessels owned by the Department of Transportation on June 30, 1950, for the sale of which a contract has not been made by that time, except those determined by the Secretary of Transportation to be of insufficient value for commercial and national defense purposes to warrant their maintenance and preservation, and except those vessels, the contracts for the construction of which are made after September 2, 1945, under the provisions of the Merchant Marine Act, 1936, as amended. A vessel under charter on June 30, 1950, shall not be placed in the reserve until the termination of such charter. Unless otherwise provided for by law, all vessels placed in such reserve shall be preserved and maintained by the Secretary of Transportation for the purpose of national defense. A vessel placed in such reserve shall in no case be used for any purpose whatsoever except that any such vessel may be used for account of any agency or department of the United States during any period in which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936, as amended and that any such vessel may be used under a bareboat charter entered into pursuant to authority vested in the Secretary of Transportation on July 1, 1950, or granted to the Secretary of Transportation after such date.

[(b) Any war-built vessel may be made available by the Secretary of Transportation to any State maintaining a marine school or nautical branch in accordance with the Act of July 29, 1941 (Public Law 191, Seventy-seventh Congress; 55 Stat. 607).]

*NATIONAL DEFENSE RESERVE FLEET*

*SEC. 11. (a) The Secretary of Transportation shall maintain a National Defense Reserve Fleet, including any vessel assigned by the Secretary to the Ready Reserve Force component of the fleet, consist-*

*ing of those vessels owned or acquired by the United States Government that the Secretary of Transportation, after consultation with the Secretary of the Navy, determines are of value for national defense purposes and that the Secretary of Transportation decides to place and maintain in the fleet.*

*(b) Except as otherwise provided by law, a vessel in the fleet may be used—*

*(1) for an account of an agency of the United States Government in a period during which vessels may be requisitioned under section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); or*

*(2) on the request of the Secretary of the Navy, and in accordance with memoranda of agreement between the Secretary of Transportation and the Secretary of Defense, for—*

*(A) testing for readiness and suitability for mission performance;*

*(B) defense sealift functions for which other sealift assets are not reasonably available; and*

*(C) support of the deployment of the United States armed forces in a military contingency, for military contingency operations, or for civil contingency operations upon orders from the National Command Authority;*

*(3) for otherwise lawfully permitted storage or transportation of nondefense related cargo as directed by the Secretary of Transportation with the concurrence of the Secretary of Defense; or*

*(4) for training purposes to the extent authorized by the Secretary of Transportation with the concurrence of the Secretary of Defense.*

*(c) The Secretary of Transportation shall not require bid, payment, performance, payment and performance, or completion bonds from contractors for repair, alteration, or maintenance of vessels of the National Defense Reserve Fleet unless—*

*(1) required by law; or*

*(2) the Secretary determines, after investigation, that the imposition of such bonding requirements would not preclude any responsible potential bidder or offeror from competing for award of the contract.*

○